


Idaho Department of Correction  	<b>Standard Operating Procedure</b>	Title: Corrective and Disciplinary Action		Page: 1 of 10
		Control Number: 205.07.01.001	Version: <b>2.0</b>	Adopted: 07-02-2008

**Sharla Means, Human Resource Manager, approved this document on  
01/23/2015.**

**Open to the public:** ☒ Yes ☐ No

### SCOPE

This SOP applies to all managers, supervisors, and employees of the IDOC.

<b>Revision Summary</b>
<b>Revision date (01/23/2015) version 2.0:</b> <ul style="list-style-type: none"> <li>• Updates throughout for clarity.</li> <li>• Significant rewrite to section 4.0</li> </ul>

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## **BOARD OF CORRECTION IDAPA RULE NUMBER**

None

## **POLICY CONTROL NUMBER**

205

## **PURPOSE**

The purpose of this standard operating procedure (SOP) is to establish guidelines, rules, and expectations for the use of corrective or disciplinary action throughout the Idaho Department of Correction (IDOC).

## **RESPONSIBILITY**

### ***Manager of Human Resource (HR)***

The Manager of HR is responsible for:

- Developing and maintaining an effective corrective or disciplinary action process which focuses on correcting undesirable performance or behavior;
- Providing consultation to supervisors and managers in the appropriate use of corrective or disciplinary action.

### ***Managers***

Managers are responsible for utilizing corrective or disciplinary action properly and within the provisions of this SOP, either directly or through subordinate supervisors.

## **GENERAL REQUIREMENTS**

### **1. Introduction**

Corrective and disciplinary actions are processes intended to correct unsatisfactory performance or unwanted behavior at the earliest possible opportunity. The intent of corrective or disciplinary action is to correct, not punish an employee. Although punishment may be the final result of a corrective or disciplinary action, the intended purpose is to provide the employee with all the tools and information he needs to become successful in his job.

### **2. Basis for Corrective or Disciplinary Action**

The decision to administer any form of corrective or disciplinary action will be based on facts that are verifiable through various methods such as observed behavior, documentation, and eyewitness accounts.

Corrective or disciplinary action will not be used to punish or otherwise retaliate against an employee for exercising his legal rights under federal or State of Idaho law or IDOC policies. Legal rights include, but are not limited to:

- The legitimate and lawful use of paid leaves (see SOP [206.07.01.002](#), *Paid Leaves*);

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- Exercising rights with respect to the Family and Medical Leave Act (FMLA) (see SOP [206.07.01.004](#), *Family and Medical Leave Act [FMLA] Leave*), workers' compensation (see SOP [206.07.01.005](#), *Workers' Compensation*), or the Americans with Disabilities Act (ADA) (42 USC 12101 et seq.); and
- Exercising the right to ensure discrimination and harassment are identified and reported pursuant to policy [201](#), *Respectful Workplace*.

### 3. Use of Progressive Corrective or Disciplinary Action

Corrective or disciplinary action will be fair, reasonable, and appropriate for the offense. The underlying principle of a sound progressive corrective and disciplinary action is to use the least severe action necessary to correct unsatisfactory performance or unwanted behavior, and to progress to more severe actions if the performance or behavior issues persist.

Factors that will be considered in determining the nature and severity of corrective or disciplinary action are:

- The nature of the unsatisfactory performance or unwanted behavior, and the seriousness with which it affected the operations of the area in which the employee works;
- The level of authority and responsibility of the employee;
- The employee's work record including past performance, length of service, and previous corrective and/or disciplinary actions; and
- Previous efforts made to help the employee succeed.

### 4. Corrective Actions

For new or existing performance or behavior issues that have not yet risen to a level requiring formal discipline, supervisors will use some form of corrective action to address the issue with the employee.

The employee will also be notified that failure to correct the performance or behavior issue may result in further corrective or disciplinary action being taken, up to and including dismissal

Prior to initiating any corrective action, the employee will be given an opportunity to respond to the allegation or to provide information regarding the unacceptable performance, conduct, or behavior.

The following are the types of corrective action, **in order of severity**:

#### ***Instruction***

Typically used the first (1<sup>st</sup>) time an issue is being addressed. A two-way discussion between the immediate supervisor and employee will ensue to clarify the issue and exactly what is expected of the employee in the future. This action:

- Does not require HR review;
- Requires employee and immediate supervisor signatures and;
- Placed in the employee's working file (Employee Personnel Records 225.07.01.001).

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### ***Warning***

Typically used the second (2<sup>nd</sup>) time an issue is addressed, or for issues generally seen as too serious to warrant additional instruction. Both the problem and the needed correction must be described in specific and objective terms.. This action:

- Does not require HR review;
- Requires employee and immediate supervisor signatures and;
- Placed in the employee's working file (Employee Personnel Records 225.07.01.001).

### ***Reprimand***

Typically used the third (3<sup>rd</sup>) time an issue is addressed, or for issues clearly too serious for either Instruction or Warning. Facts detailing the performance issue or unacceptable behavior will be clearly stated, along with the specific law, rule, policy, or procedure that was violated (if applicable). The acceptable standard of performance or behavior will be described and for performance-related issues, reasonable time frames for compliance will also be stated. The Reprimand shall also notify the employee that failure to correct the performance or behavior issue may result in further corrective or disciplinary action being taken, up to and including dismissal. This action:

- Can be submitted for HR review and consultation. (This is recommended but not required);
- Requires employee and immediate supervisor signatures and;
- Placed in the employee's working file.

## **5. Disciplinary Actions**

In the event that unsatisfactory performance or behavior continues after completing the corrective action phase of corrective or disciplinary action, or an employee commits an offense of such magnitude as to warrant more severe sanctions, the management authority may consider carrying out disciplinary action against the employee. Disciplinary actions vary, and like corrective actions, will be carried out in a manner consistent with the nature of the offense.

Per the *Rules of the Division of Human Resources and Personnel Commission*, Section 190.01, any disciplinary action, including separation, taken against a permanent classified State employee may be for any of the following reasons:

- Failure to perform the duties and carry out the obligations imposed by the State's constitution, statutes, or rules of the Board of Correction **or** Division of Human Resources and Personnel Commission;
- Inefficiency, incompetence, or negligence in performing duties or job performance that fails to meet established performance standards;
- Physical or mental inability to perform assigned duties, if a reasonable accommodation cannot be made for the disabling condition;
- Refusal to accept a reasonable and proper assignment from an authorized supervisor;
- Insubordination or conduct unbecoming a State employee or conduct detrimental to good order and discipline in the IDOC;

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- Intoxication while on duty;
- Careless, negligent, or improper use or unlawful conversion of State property, equipment, or funds;
- Use of any influence which violates the principles of the merit system in an attempt to secure a promotion or privileges for individual advantage;
- Conviction of official misconduct in office, or conviction of any felony, or conviction of any other crime involving moral turpitude;
- Acceptance of gifts in exchange for influence or favors given in the employee's official capacity;
- Habitual pattern of failure to report for duty at the assigned time and place;
- Habitual improper use of sick leave;
- Unauthorized disclosure of confidential information from official records;
- Absence without leave;
- Misstatement or deception in application for employment;
- Failure to obtain or maintain a current license or certificate lawfully required as a condition in performance of duties;
- Prohibited participation in political activities.

Disciplinary action requires:

- HR review and consultation;
- Due process be provided to the employee (see [section 7](#));
- Management authority, division chief, and employee signatures;
- Documentation (see [section 7](#)). All original documents and correspondence relating to the action are placed in employee's permanent file in HR, a copy goes in the employee's working file, and a copy goes to the administrator of DHR.

Facts detailing the performance issue or unacceptable behavior shall be clearly defined, along with the specific law, rule, policy, or procedure that was violated. The employee shall be notified that failure to correct the performance or behavior issue might result in further disciplinary action being taken, up to and including dismissal

The following are the types of disciplinary action, **in no particular order of severity**:

#### ***Disciplinary Suspension without Pay***

A disciplinary action taken against an employee whereby the employee is not permitted to report to work for a set period of time, and cannot claim vacation, sick, compensatory time (comp-time), or earned administrative leave (EAL) hours for that period. Facts detailing the performance issue or unacceptable behavior shall be clearly defined, along with the specific law, rule, policy, or procedure that was violated. The employee shall be notified that failure to correct the performance or behavior issue might result in further disciplinary action being taken, up to and including dismissal. This action:

- Requires HR review and consultation;

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- Requires due process be provided to the employee (see section 7);
- Requires management authority, division chief, and employee signatures and;
- Is documented (see section 7). All original documents and correspondence relating to the action are placed in employee's permanent file in HR, a copy goes in the employee's working file (Employee Personnel Record, 225.07.01.001 , and a copy goes to the administrator of the State's Division of Human Resources (DHR).

#### ***Disciplinary Reduction in Pay***

A disciplinary action taken against an employee whereby their pay is reduced by a set amount over a period of time as a means of effectively suspending them without pay, but without having them miss any work. Facts detailing the performance issue or unacceptable behavior shall be clearly defined, along with the specific law, rule, policy, or procedure that was violated. The employee shall be notified that failure to correct the performance or behavior issue might result in further disciplinary action being taken, up to and including dismissal.

#### ***Disciplinary Demotion***

A disciplinary action taken against an employee whereby they are reassigned to a position in another classification in a lower pay grade.. This action:

- Requires HR review and consultation;
- Requires due process be provided to the employee (see section 7);
- Requires management authority, division chief, and employee signatures;
- Is documented (see section 7). All original documents and correspondence relating to the action are placed in employee's permanent file in HRS, a copy goes in the relevant section of the employee's work file, and a copy goes to the administrator of DHR.

#### ***Involuntary Transfer***

A significant change in work location, shift and/or organizational unit made as a result of a management decision as opposed to an employee's request or agreement to transfer. It can be used as a form of discipline in specific cases where a transfer is deemed an appropriate solution to an employee's unacceptable performance or behavior. When used as a form of discipline, facts detailing the performance issue or unacceptable behavior shall be clearly defined, along with the specific law, rule, policy, or procedure that was violated. This action:

- Requires HR review and consultation;
- Requires due process be provided to the employee (see section 7);
- Requires management authority, division chief, and employee signatures;
- Is documented (see section 7). All original documents and correspondence relating to the action are placed in employee's permanent file in HR, a copy goes in the employee's working file, and a copy goes to the administrator of DHR.

#### ***Disciplinary Dismissal***

The separation of an employee from classified service for cause due to an ongoing and uncorrected performance or behavior issue, or for an offense of such magnitude as to

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warrant immediate separation. Facts detailing the performance issue or unacceptable behavior shall be clearly defined in writing, along with the specific law, rule, policy, or procedure that was violated. This action:

- Requires HR review and consultation;
- Requires due process be provided to the employee (see section 7);
- Requires management authority, division chief, and employee signatures;
- Is documented (see section 7). All original documents and correspondence relating to the action are placed in employee's permanent file in HR, a copy goes in the employee's working file, and a copy goes to the administrator of DHR.

## 6. Performance Improvement Plan

A performance improvement plan (PIP) is a tool to assist supervisors in helping employees be successful. It can be used in conjunction with any corrective or disciplinary action, and shall be used with any performance evaluation in which a "does not achieve" rating is given (see policy [222](#), *Performance Evaluations*).

The PIP is a document designed to:

- Describe an employee's performance or behavioral issues;
- Identify goals related to areas of needed improvement;
- List activities and resources that will help the employee reach those goals; and
- Provide timeframes for those goals to be reached.

The PIP will also affirm to the employee that failure to correct the performance or behavior issue within the guidelines of the PIP may result in further corrective or disciplinary action being taken, up to and including dismissal.

## 7. Due Process

Prior to making a decision to impose any disciplinary action or involuntary transfer against an employee, the State's due process procedure must be followed. This means the IDOC must provide the employee notice and an opportunity to respond before a decision is made to carry out any disciplinary action or involuntary transfer. . An employee on entry probationary status is not entitled to due process as outlined in this Section and the probationary employee may be terminated without cause assigned and without the right to file for problem-solving or appeal disciplinary action.

### ***Notice of Contemplated Action (NOCA)***

The employee's management authority shall provide written notification to the employee for whom discipline or involuntary transfer is being considered. With respect to notice, the IDOC must provide a NOCA which will state the basis or reason for the contemplated action, and an explanation of the evidence supporting the contemplated action. The management authority shall work in conjunction with HR and the IDOC's deputy attorneys general (DAGs) on such things as providing supporting documentation, identifying which policies were violated or determining what action will be considered. A copy of the NOCA will be placed in the employee's permanent file in HR and a second copy will be sent to the DHR.

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### ***Opportunity to Respond***

The NOCA shall inform the employee of the opportunity to present his reason(s) why the contemplated action should not be taken. After the management authority dispenses the NOCA to the employee, the employee shall be allotted five (5) working days to respond. A request for an extension is at the management authority's discretion.

The employee may

- Accept the opportunity to respond within five (5) working days,
- Reject the opportunity by failing to respond within the five (5) working days, or
- Waive in writing the opportunity altogether.

If the employee accepts or waives the opportunity, it is preferred that he respond in writing to the management authority that issued the NOCA. The management authority will submit a copy of the written response to HR. Verbal responses are accepted at the discretion of the division chief only. In the event of a verbal response, the management authority will document the verbal response and submit a copy to HR.

During the opportunity to respond, the employee is allowed to be represented by a person of the employee's own choosing.

### ***IDOC's Decision***

After the employee responds, declines to respond, or waives the opportunity to respond, the management authority shall make and implement a decision within ten (10) working days.

A *Letter of Disciplinary Action (LODA)* will be sent to the employee explaining the decision. The LODA will either modify, impose, or revoke the contemplated action. In any case, a copy of the LODA will be placed in the employee's permanent file in HR and a second copy will be sent to the DHR.

### ***Resignation in Lieu of Discipline***

In the event an employee chooses to resign from the IDOC before a decision regarding discipline has been taken, the disciplinary process shall be suspended at that point and the employee's work record shall indicate that he resigned from the IDOC in lieu of discipline.

Documentation shall be placed in the employee's permanent file indicating that an unresolved disciplinary matter still exists and that should the employee ever seek reemployment or reinstatement with the IDOC the disciplinary matter would need to be resolved prior to reemployment or reinstatement.

### ***Alternate Mediation Option***

At the mutual agreement of both the employee and the IDOC, both parties may engage in mediation to discuss the NOCA.

To request mediation, the employee must make a written request within two (2) working days after receiving the NOCA. If mediation is agreed upon by both sides, the time limitations for the opportunity to respond and the IDOC's decision will be suspended pending the outcome of the mediation.

If the request for mediation is rejected by the IDOC, the employee shall still have the opportunity to respond. (See subsection [Opportunity to Respond](#).)



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### ***Right to Appeal***

An employee may appeal the IDOC's decision to the Idaho Personnel Commission as outlined in the *Rules of the Division of Human Resources and Personnel Commission*, Section 201, and Idaho Code 67-5316.

## **8. Relevance to Performance Evaluations**

Any corrective or disciplinary action taken against an employee shall be documented on the employee's next annual performance review.

Once a corrective or disciplinary action has been documented on an employee's annual performance review, that particular corrective or disciplinary action shall not be mentioned on any subsequent annual performance review unless the issue in question is a recurring issue . (See policy [222](#), *Performance Evaluations*).

## **DEFINITIONS**

***Corrective Action:*** An action taken to address and correct unacceptable behavior, misconduct, or substandard work performance to include, but not limited to, Instruction, Warning or Reprimand.

***Disciplinary Action:*** An administrative action taken to address and correct unacceptable behavior, misconduct, or substandard work performance to include disciplinary suspension without pay, disciplinary demotion, disciplinary reduction in pay, involuntary transfer, and dismissal. The State of Idaho's due process procedures must be used prior to implementation.

***Due Process:*** A procedure whereby a person is given notice and an opportunity to be heard in order to protect a legal right that could be taken away.

***Management Authority:*** The appointed facility or unit manager having the authority and responsibility for the day to day management, control, and responsibility for a designated administrative unit within the Department. This includes the director, division chief, deputy chief, warden, deputy warden, probation and parole district manager, or community work center manager in the employee's chain of command. It also includes a designated acting manager, someone delegated to act on behalf of the manager, or someone temporarily appointed as manager while the manager is on leave or is unavailable.

***Progressive Corrective and Disciplinary Action:*** A series of corrective and/or disciplinary actions that are increasingly more severe for repeated incidents of unacceptable behavior, misconduct, or substandard work performance.

## **REFERENCES**

Department Policy [201](#), *Respectful Workplace*

Department Policy [222](#), *Performance Evaluations*

Idaho Code 67-5309(n), *Rules of the Division of Human Resources and the Personnel Commission*

Idaho Code 67-5315, *Establishment and Adoption of Employee Problem Solving and Due Process Procedures*

Idaho Code 67-5316, *Appeal Procedure*

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IDAPA 15.04.01, *Rules of the Division of Human Resources and Personnel Commission*, Section 190, Disciplinary Actions

IDAPA 15.04.01, *Rules of the Division of Human Resources and Personnel Commission*, Section 200.06, Problem-solving and Due Process Procedures; Elements of Due Process Procedure

IDAPA 15.04.01, *Rules of the Division of Human Resources and Personnel Commission*, Section 201, Appeal Process

United States Code, Title 42, Chapter 126, *Equal Opportunity for Individuals with Disabilities*

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